



CRM-M-21059-2024 (O & M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(213)

CRM-M-21059-2024 (O & M)

Date of decision:22.05.2024

Akku @ Aakash

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vikram Singh, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.87 dated 27.03.2024 under Sections 148, 149, 323, 341, 365, 367 and 506 IPC registered at Police Station Quilla Panipat, District Panipat.

2. The present FIR came to be registered at the instance of Rohit Kumar Saini and reads as under:-

"The copy of the statement of Rohit Kumar Saini son of Surender Saini resident of Saini Colony Panipat aged 30 years phone No.74049 25055. It is stated that I am a resident of the above of the above mentioned address and is a laborer. That yesterday on dated 26.03.2024 me and my friend Ankush son of Ved Parkash resident of ward No. 11 Panipat were going on motorcycle for some personal work from Mata Chowk to Ram Lal School and I was driving the motor cycle and Ankush was sitting behind me and when we reached Shriram Washing Service Centre Saini Colony then at around 3 pm, Rahul Jhatka, Vicky Saini, Deepa, Akku and one person name not known



stopped our way and Rahul Jhatka said to pick me up. Then all of them abducted me and took me in the closed street where the assailants were having weapons in their hands and then they laid me down and gave beatings with binda and danda. Then I shouted Mar dia- Mar- dia, then the nearby persons came to me and they got me rescued. Then the accused persons along with their weapons fled away from the spot and said while leaving that they are going now and next time they will kill me. That Rahul Jhatka, Vicky Saini, Deepa, Akku and one person name not known along with each other got me injured and thus action be taken against the accused persons. Attested. Sd/- Jaiveer Singh 657 Quilla dated 27.03.2024."

3. During the course of investigation, the statement of an eye-witness, namely, Ankush was recorded under Section 161 Cr.P.C.. On 11.04.2024, an opinion with regard to the injuries suffered by the injured was obtained, as per which injuries No.2 and 3 were found to be grievous in nature and injuries No.1, 4 and 5 were found to be simple in nature. Therefore, Section 367 IPC was added in this case. On 17.04.2024, Pushpender-brother of the complainant appeared before the investigating agency and produced photographs of the injured/complainant which were taken into police possession.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. No specific injury had been attributed to him. In fact, he had been implicated as he had moved an application dated 18.01.2024 against the complainant party with regard to causing damage in his office. However, no action had been taken on the said complaint. Be that as it may, taking the allegations to be correct, Section 367 IPC was not made out. As the petitioner was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail.



5. The learned counsel for the State, on the other hand, has filed a reply by way of an affidavit of Suresh Kumar, HPS, Deputy Superintendent of Police, Traffic, Panipat dated 16.05.2024 which is taken on record. While referring to the said reply, he contends that the complainant has suffered fractures in the bones of his left leg and forearm. Injuries No.2 and 3 had been declared to be grievous. The photographs of the injured would show the merciless manner in which he had been beaten up. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of anticipatory bail.

6. I have heard the learned counsel for the parties.

7. The Hon'ble Supreme Court in the case of '***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***', has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to



the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

8. A perusal of the FIR would show that all the accused including the petitioner brutally assaulted the complainant-injured causing him multiple injuries. The MLR & the photographs would show him to have suffered fractures of the arm and the leg. Therefore, *prima facie*, the offence stands established against the petitioner and his co-accused. Further, with a



view to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

9. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

10. However, it is made clear that the observations made in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

May 22, 2024
sukhpreet

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No